

ARTICLE 5.3. MARINE TERMINAL PERSONNEL TRAINING AND CERTIFICATION

§2540. Purpose, Applicability and Date of Implementation.

- (a) The purpose of the regulations in Title 2, Division 3, Chapter 1, Article 5.3, of the California Code of Regulations is to establish onshore and offshore marine terminal personnel oil-handling training and certification requirements which, when followed, will:
 - (1) Provide improved protection of California waters and natural resources by preventing oil spills caused by human factors;
 - (2) Ensure that marine terminal personnel involved in oil-handling operations are adequately trained and have demonstrated competency; and
 - (3) Establish certification that personnel are in compliance with training requirements.
- (b) The provisions of this article shall not apply to:
 - (1) Operations conducted at offshore drilling and production facilities.
 - (2) Tank cleaning operations which begin after the removal of cargo or fuel from any tank vessel or barge.
- (c) Unless otherwise specified in this article, all of the provisions of this article become effective 30 days after they have been filed with the Secretary of State.

Authority: Sections 8750, 8755 and 8756, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8756, 8757, Public Resources Code.

§2541. Definitions.

Unless the context otherwise requires, the following definitions shall govern the construction of this article:

- (a) "Barge" means any vessel that carries oil in commercial quantities as cargo, but is not equipped with a means of self-propulsion.
- (b) "Certification" means the documentation that a terminal employee has met all of the requirements of an oil spill prevention training and job competency program that meets the requirements of this article.
- (c) "Division" means the Marine Facilities Inspection and Management Division of the California State Lands Commission.

- (d) "Division Chief" means the Chief of the Marine Facilities Inspection and Management Division or any employee of the Division authorized by the Chief to act on his behalf.
- (e) "Human factors" means human conditions, such as inadequate knowledge or fatigue, which can lead to operator error or poor judgement.
- (f) "Human factor risks" means risks of causing an oil spill due to the effects of human factors on competency and judgement.
- (g) "Indirect operations" means involvement in on-site activities, such as new construction, in a capacity that indirectly involves the risk of an oil spill to waters of the state due to potential impacts to nearby oil-handling operations (e.g., operating digging equipment next to an active oil transfer pipeline).
- (h) "Maintenance" means direct involvement in maintaining and repairing the equipment used for the transfer, storage, handling, or monitoring of oil at a marine terminal in a capacity that involves the risk of an oil spill to marine waters.
- (i) "Management" means the first line supervision with direct involvement in managing the transfer, storage, handling, or monitoring of oil at a marine terminal by administering operations policies and procedures that involve the risk of an oil spill to marine waters.
- (j) "Marine terminal" means a facility, other than a vessel, located on or adjacent to marine waters in California, used for transferring oil to or from tank vessels or barges. The term references all parts of the facility including, but not limited to, structures, equipment and appurtenances thereto used or capable of being used to transfer oil to or from tank vessels or barges. For the purpose of these regulations, a marine terminal includes all piping not integrally connected to a tank facility.
- (k) "Maximum extent practicable" means the highest level of effectiveness that can be achieved through the use of terminal personnel and best achievable technology. In determining what is the maximum extent practicable, the Division shall consider, at a minimum, the effectiveness, engineering feasibility, commercial availability, safety, and the cost of the measures.
- (l) "Offshore marine terminal" means any marine terminal at which tank vessels or barges are made fast to a buoy or buoys.
- (m) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste,

and liquid distillates from unprocessed natural gas.

- (n) "Onshore marine terminal" means any marine terminal at which tank vessels or barges are made fast to land structures or substantially land structures.
- (o) "On-the-job training" means learning procedures and equipment use through observation of experienced and competent personnel, and supervised hands-on practice.
- (p) "Operations" means direct involvement in the transfer, storage, handling, or monitoring of oil at a terminal in a capacity that involves the risk of an oil spill to waters of the state. This functional group includes but is not limited to the Terminal person in charge, storage tank operators, pipeline operators, and oil transfer monitors.
- (q) "Operator" when used in connection with vessels, marine terminals, pipelines, or facilities, means any person or entity which owns, has an ownership interest in, charters, leases, rents, operates, participates in the operation of or uses that vessel, terminal, pipeline, or facility. "Operator" does not include any entity which owns the land underlying the terminal or the terminal itself, where the entity is not involved in the operations of the terminal.
- (r) "Personnel" means individuals employed by, or under contract with, a terminal.
- (s) "Spill" or "discharge" means any release of oil into marine waters which is not authorized by any federal, state, or local government entity.
- (t) "Supervisory" means involvement in directly supervising any transfer, storage, handling, or monitoring of oil at a marine terminal by implementing operations policies and procedures that involve the risk of an oil spill to marine waters.
- (u) "Tank facility" means any one or combination of above ground storage tanks, including any piping which is integral to the tank, which contains crude oil or its fractions and which is used by a single business entity at a single location or site. A pipe is integrally related to an above ground storage tank if the pipe is connected to the tank and meets any of the following:
 - (1) The pipe is within the dike or containment area;
 - (2) The pipe is connected to the first flange or valve after the piping exits the containment area; or
 - (3) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

- (v) "Tank vessel" or "tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.
- (w) "Terminal" means marine terminal.
- (x) "Terminal person in charge" or "TPIC" means an individual designated by the terminal operator as the person in charge of a particular oil transfer operation at a particular terminal.

Authority: Sections 8750, 8751 8755 and 8756, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8756, 8757, Public Resources Code.

§2542. Training Requirements.

- (a) Each onshore and offshore terminal shall develop and implement oil spill prevention training for supervisory, operations, maintenance, management, and indirect operations personnel identified pursuant to subsection (c) of this section. Training shall be designed to promote job competency and environmental awareness for the purpose of preventing oil spills. Non-English-speaking personnel subject to the terminal's training requirements shall be trained in a manner that allows comprehension by such personnel.
- (b) Oil spill prevention training programs must be approved by the Division.
- (c) The terminal operator shall identify, in writing, the specific position titles which the terminal has identified to be subject to its oil spill prevention training requirements. In making this determination, the terminal shall evaluate the functions of terminal personnel positions using the definitions of "Supervisory," "Operations," "Maintenance," "Management," and "Indirect Operations" as defined in section 2541. For cases where certain job titles associated with maintenance and indirect operations can not be identified in advance, the terminal operator shall identify the types of job orders or work sites which may involve the need for maintenance or indirect operations oil spill prevention training.
- (d) The terminal operator shall identify, in writing, the specific initial classroom and on-the-job oil spill prevention training requirements for each position, including minimum hours, that are appropriate for each position given the terminal's training needs and human factor risks.
- (e) Requirements for training of operations and supervisory personnel shall focus on building personnel competency in operating procedures and spill prevention systems specific to the terminal. Oil spill prevention training requirements shall

incorporate, at a minimum, the following training topics:

- (1) Overview of all oil handling, transfer, storage, and monitoring/leak detection operations at the terminal;
 - (2) Operating procedures and checklists specific to trainee's job function;
 - (3) Problem assessment including recognition of human factor risks and how they can be minimized;
 - (4) Awareness of preventative maintenance procedures;
 - (5) Awareness of local environmental sensitivity and oil spill impacts;
 - (6) Major components of the terminal's operations manual;
 - (7) Major components of the terminal's oil spill contingency plan including notification procedures for oil spills;
 - (8) Decision-making for abnormal operating events and emergencies, including emergency spill prevention and safe shut down conditions, responsibilities and procedures;
 - (9) Routine and emergency communications procedures;
 - (10) Overview of applicable oil spill prevention and response laws and regulations; and
 - (11) Drug and alcohol use awareness.
- (f) Requirements for initial oil spill prevention training of management personnel shall incorporate, at a minimum, the following training topics:
- (1) Overview of all oil handling, transfer, storage, and monitoring/leak detection operations at the terminal;
 - (2) Management role in operations and oil spill prevention;
 - (3) Recognition of human factor risks and how they can be minimized;
 - (4) Awareness of local environmental sensitivity and oil spill impacts;
 - (5) Major components of the terminal's operations manual;
 - (6) Major components of the terminal's oil spill contingency plan including

- notification procedures for oil spills and incident command systems;
- (7) Decision-making for abnormal operating events and emergencies, including emergency spill prevention and safe shut down conditions, responsibilities and procedures;
 - (8) Overview of applicable oil spill prevention and response laws and regulations; and
 - (9) Drug and alcohol use awareness.
- (g) Requirements for initial oil spill prevention training of maintenance or indirect operations personnel shall incorporate, at a minimum, the following training topics:
- (1) Overview of equipment, operations and hazards at specific maintenance and indirect operations work site(s) within the facility;
 - (2) Awareness of local environmental sensitivity and oil spill impacts;
 - (3) Notification procedures for oil spills; and
 - (4) For terminal employees, drug and alcohol use awareness.
- (h) Training topics identified in subsections (e) to (g) of this section do not prescribe fixed subject titles for class outlines or training organization. Terminals may combine or integrate these topics, as appropriate, but must ensure that information on each topic is presented in the applicable personnel training program.
- (i) The terminal operator shall identify, in writing, the specific oil spill prevention continuing education requirements for each affected position, including minimum hours that are appropriate given the terminal's training needs and human factor risks. Ongoing training shall occur at least annually and, at a minimum, address:
- (1) Any changes in the topics identified in subsections (e) to (g) of this section.
 - (2) Refresher awareness training on environmental sensitivity and oil spill impacts;
 - (3) Review and analysis of oil spills which have occurred during the past year;
 - (4) Refresher training on oil spill prevention procedures; and

- (5) For supervisory, operations, and management personnel, a practice exercise of the terminal's procedures for preventing a spill during a particular abnormal operations event.
- (j) Terminal operators are encouraged to combine existing training programs required under federal Process Safety Management requirements (29 CFR 1910), Coast Guard Persons in charge requirements (33 CFR 154.710), and other federal and state training requirements in order to meet the above oil spill prevention training requirements.
- (k) Existing personnel that have entered their current positions prior to these regulations becoming effective can be regarded as having met the terminal's initial oil spill prevention training requirements if the terminal operator has documented that those personnel have received the required training in initial oil spill prevention within the previous five years. Existing personnel shall be recertified at least once every three years in accordance with subsection (g) of section 2545.
- (l) Terminal operators shall develop follow up remedial training for personnel clearly responsible for causing an oil spill while functioning in their position, unless such personnel no longer occupy a position identified under subsection (c).
- (m) Contractors hired by the terminal operator to perform supervisory, operations, maintenance, management, or indirect operations functions, as identified by the terminal under subsection (c) of this section, are considered "personnel" for the purposes of these regulations, and shall be subject to the same oil spill prevention training requirements as terminal employees. The terminal operator is responsible to validate that such contractors have met the terminal's oil spill prevention training requirements before they perform a supervisory, operations, maintenance, management, or indirect operations function.
- (n) Terminal operators shall develop minimum training and experience qualifications for trainers who will demonstrate terminal specific procedures, equipment use, supervise practice sessions, and provide other on-the-job training to new personnel.

Authority: Sections 8750, 8755 and 8756, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8756, 8757, Public Resources Code.

§2543. Training Materials.

Terminal operators shall develop and maintain written oil spill prevention training materials, such as training manuals, checklists and curricula.

Authority: Sections 8750, 8755 and 8756, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8756, 8757, Public Resources Code.

§2544. Certification Program.

- (a) Each onshore and offshore terminal operator shall develop and implement a program to certify that supervisory and operations personnel identified pursuant to subsection (c) of section 2542 of these regulations, have met the terminal's oil spill prevention training program requirements, and are competent to perform the functions associated with their positions. The certification program shall be designed, to the maximum extent practicable, to ensure job competency and environmental awareness for the purpose of preventing oil spills.
- (b) Certification programs must meet the minimum criteria set forth in section 2545 of these regulations.
- (c) All certification programs for supervisory and operations personnel must be approved by the Division as required by section 2546 of these regulations.

Authority: Sections 8750, 8755 and 8756, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8756, 8757, Public Resources Code.

§2545. Minimum Criteria for Certification.

- (a) The terminal oil spill prevention certification program shall address all supervisory and operations personnel identified pursuant to subsection (c) of section 2542.
- (b) The terminal operator shall develop and maintain written certification procedures, including:
 - (1) Minimum competency requirements to achieve certification;
 - (2) The process to develop and test competency in supervisory and operations personnel; and
 - (3) The process of issuing and tracking certificates, including replacement of lost certificates.
- (c) The terminal operator shall maintain a written certificate or other record for supervisory and operations personnel which have met the terminal's certification requirements. This record shall document:
 - (1) The certified individual's name and position;

- (2) Types and hours of training completed;
 - (3) Name of trainer;
 - (4) Results of performance tests and evaluations;
 - (5) Signatures of the trainee and trainer; and
 - (6) Date of certification.
- (d) Copies of certification records shall be kept at the terminal or in a location such as an office, so that they are readily accessible to Division staff, for at least five years from the date of certification.
- (e) A terminal's certification program shall incorporate methods to evaluate and confirm job competency, including:
 - (1) A written examination, or oral examination documented in writing, which tests general knowledge about training topics identified under subsection (e) of section 2542, with an appropriate minimum passing score established by the terminal operator.
 - (2) A practical evaluation of understanding and performance of routine and emergency operations specific to position's job function, including observation of performance of each oil handling, transfer, storage, and monitoring duties assigned to a position prior to unsupervised performance of those duties.
- (f) The terminal's program shall only provide for certification of an individual who has:
 - (1) Met the terminal's oil spill prevention initial training requirements relevant to the individual's position, as developed pursuant to subsection (d) of section 2542; and
 - (2) Passed a competency evaluation developed under subsection (e) of this section.
- (g) Recertification shall occur at least once every three years based on:
 - (1) Successful completion of annual refresher training; and
 - (2) Satisfactory performance in a reevaluation of competency as developed under subsection (e) of this section.

Authority: Sections 8750, 8755 and 8756, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8756, 8757, Public Resources Code.

§2546. Program Approval.

- (a) Terminal operators shall develop or modify their training and certification program to meet the requirements of Article 5.3, begin implementing the program, and, if necessary, update the description of this program within twelve months of the effective date of these regulations.
- (b) Within eighteen months of the effective date of these regulations the terminal operator shall have conducted certification procedures, as developed pursuant to subsection (b) of section 2545, for all existing personnel that are subject to the terminal's certification requirements and have entered their current position prior to these regulations becoming effective.
- (c) The Division shall review a terminal's training and certification program after the date determined by subsection (a) of this section. This review shall be accomplished by a general on-site inspection by the Division through evaluation of the terminal's training materials, testing and certification records, and consultation with terminal personnel.
- (d) The Division shall notify terminal operators regarding approval status within 30 calendar days of completing inspections under subsection (c) of this section.
- (e) Terminal operators who do not receive approval will have 90 days to address deficiencies in their training and certification program, with options for a time extension at the discretion of the Division. For those personnel that were trained or certified after the dates established by subsection (a) of this section but prior to training program disapproval, retraining or recertification of such personnel due to changes required by the Division's approval process may be postponed until the next retraining or recertification cycle as established by the terminal pursuant to this Article.
- (f) Training and certification program approval is valid for five years. Significant changes to the terminal's program must be documented through an update of the terminal's training and certification program and submitted to the Division for approval. Minor upgrades in training programs, such as expansion of training hours or updates to training materials, are not required to be submitted. The Division may perform announced and unannounced inspections at terminals to verify compliance.
- (g) A training and certification program shall be approved if, in addition to meeting

the requirements of sections 2544 and 2545 it demonstrates that, when implemented, it can, to the maximum extent practicable:

- (1) Provide protection from human factor oil spill risks identified in the risk analysis required by the terminal's oil spill contingency plan;
 - (2) Minimize the likelihood that terminal oil spills will occur and minimize the size and impacts of those terminal oil spills which do occur;
 - (3) Provide effective oil spill prevention training to supervisory, operations, maintenance, management, and indirect operations personnel;
 - (4) Ensure proper evaluation of job competency; and
 - (5) Provide an effective system to clearly document and track personnel training and certification.
- (h) The Division may approve a training and certification program with an expedited review as set out in this section if that program has been approved by a federal agency which the Division has deemed to apply approval criteria which equal or exceed those of the Division.
- (i) If the training and certification program receives approval, the terminal operator shall receive a letter of approval from the Division, describing the terms of approval, including expiration dates pursuant to subsection (f) of this section.
- (j) If approval is denied or revoked, the terminal operator shall receive, in writing, an explanation of the factors for disapproval and a list of deficiencies. The terminal operator may be subject to enforcement actions prescribed under sections 8670.57, 8670.58 8670.59 and 8670.61 of the Government Code.
- (k) Approval of a training and certification program by the Division does not constitute an express assurance regarding the adequacy of the program nor constitute a defense to liability imposed under state law.
- (l) The Division may review a program following any spill at the terminal.

Authority: Sections 8750, 8755 and 8756, Public Resources Code.

Reference: Sections 8670.57, 8670.58, 8670.59, 8670.61 Government Code;
Sections 8750, 8751, 8755, 8756, 8757, Public Resources Code.

§2547. Inspections.

- (a) The Division may verify compliance with this article by announced and unannounced inspections in accordance with section 8757 of the Public Resources Code and section 2320 of Title 2, Division 3, Chapter 1, Article 5, of the California Code of Regulations.
- (b) During inspections, Division staff may require terminal operators to demonstrate proof of training and certification of supervisory and operations personnel.
- (c) The Division shall provide a copy of an inspection report to the terminal operator within thirty calendar days from the inspection date.

Authority: Sections 8750, 8755 and 8756, Public Resources Code.

Reference: Section 8670.2, Government Code; Sections 8750, 8751, 8755, 8756, 8757, Public Resources Code.

§2548. Modifications or Alternatives.

(a) Petitions for Modifications or Alternatives.

- (1) Any person subject to these regulations may submit a petition to the Division Chief for modifications or alternatives to the requirements of Article 5.3.
- (2) All petitions for modifications or alternatives must be submitted in writing. A petition may be in any form, but it must contain all data and information necessary to evaluate its merits.

(b) Response to Petitions.

The Division Chief shall respond in writing to any petition for modifications or alternatives within 30 days of receipt of the petition.

(c) Approval of Modifications or Alternatives.

- (1) The Division Chief may approve any proposed modifications or alternatives to the requirements of Article 5.3 if he or she determines that the proposed modifications or alternatives will fulfill the purpose of these regulations as outlined in subsection (a) of section 2540 of this article.
- (2) If the Division Chief approves any proposed modification or alternatives under this section, a letter of approval shall be issued to the petitioner setting forth the findings upon which the approval is based, and a copy of that letter shall be maintained with the terminal's training manual or

training records required by section 2543 of these regulations.

- (3) The Division Chief may withdraw the letter of approval of any modifications or alternative requirements at any time if he or she finds that the person or persons subject to these regulations have not regularly and consistently complied with the approved modified or alternative requirements.
- (4) Withdrawal of a letter of approval under this section shall be effective upon receipt by the petitioner of written notification of the withdrawal from the Division Chief.

Authority: Sections 8750, 8755 and 8756, Public Resources Code.

Reference: Sections 8750, 8751, 8755, 8756, 8757, Public Resources Code.